

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL NO. 1456
Master File No.: 01-CV-12257-PBS
Judge. Patti B. Saris

THIS DOCUMENT RELATES TO:

*United States of America ex rel Linette Sun
and Greg Hamilton, et al., Relators, v.
Baxter Hemoglobin Therapeutics, et al.,
Defendants.*
Civil Case No.: 1:08-cv-11200-PBC

RELATORS LINNETTE SUN'S AND GREG HAMILTON'S
INITIAL DISCLOSURES PURSUANT TO RULE 26

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, Relators Linnette Sun and Greg Hamilton, by and through their attorneys, makes the following initial disclosures. These disclosures are the result of Defendant's good faith efforts to identify information presently available to them that they reasonably believes they may use to support their claims required by Rule 26(a)(1). By making these disclosures, Relators do not represent that they are identifying and/or producing every document, tangible thing, or witness that they may use in support of their claims. Relators reserve the right to supplement or amend these disclosures, as appropriate, as discovery, further investigation, and other proceedings relating to this action proceed.

These disclosures are not intended to be, and shall not be construed as, a waiver of any objections Relators may assert during discovery or trial of this action. Relators do not waive any objections that may be appropriate, including without limitation: (a) to the use, for any purpose, by any party to this litigation, any of the information or documents disclosed for any purpose other than the prosecution or defense of this lawsuit; (b) to the admissibility or relevancy of any of the documents or information disclosed; (c) to the production of any document prior to the entry of an appropriate protective order; or (d) to any applicable privilege or immunity under federal or state law, including without limitation, the attorney-client privilege and/or work product doctrine.

Relators' initial disclosures are made subject to and without limitation of the foregoing. Relators make these disclosures in the belief that, at an appropriate time, the parties can and will agree upon an appropriate confidentiality order and rational production limitations.

A. Relators' Rule 26(a)(1)(A)(I) Disclosure: Identification of Individuals

Relators state that the following individuals are likely to have discoverable information that Relators may use to support its claims or defenses. Relators state further that the identity of additional individuals with relevant information might be found in documents produced in this case and reserves the right to supplement this list.

1. Current and former employees and elected and/or appointed officials or representatives of the various states and the respective state Medicaid agencies Relators allege were damaged in their Second Amended Complaint, as well as their predecessor agencies, contractors, and consultants. Such persons may have knowledge regarding: coverage and reimbursement of Baxter drugs and therapies that were administered; payments or co-payments for Baxter drugs and therapies; the AWP, WAC, and other pricing benchmarks for Baxter drugs and therapies; and healthcare providers' actual costs for Baxter drugs and therapies.

2. Current and former employees of the pharmaceutical benefits managers used by the federal government and the various states alleged to be damaged in the Second Amended Complaint. Such persons may have knowledge regarding: coverage and reimbursement of Baxter drugs and therapies that were administered; payments or co-payments for Baxter drugs and therapies; the AWP, WACs, and other pricing benchmarks for Baxter drugs and therapies; healthcare providers' actual costs for Baxter drugs and therapies; and negotiation of reimbursement amounts for Baxter drugs and therapies with healthcare providers and/or insurers.
3. Healthcare providers or administrators of organizations which employ or contract with healthcare providers who purchase and administer Baxter drugs and therapies. Such persons may have knowledge regarding: coverage and reimbursement by the federal government and state Medicaid agencies; payments or co-payments by the federal government and state Medicaid beneficiaries; and the manner in which the spread was used as an inducement.
4. Current and former employees of the federal government and its contractors including, but not limited to, employees of the Department of Justice; the Department of Health and Human Services ("HHS"), the Centers for Medicare and Medicaid Services (formerly the Health Care Finance Administration), the General Accounting Office, the HHS Office of Inspector General. Such persons have knowledge regarding: the consent decree signed by one or more of the price reporting services, the coverage and reimbursement of Baxter drugs and therapies; the difference between AWP and actual cost to healthcare providers for Baxter drugs and therapies; and healthcare providers' actual costs for Baxter drugs and therapies.
5. Current and former employees of the price reporting services or compendia listed in paragraphs 23 and 24 of Plaintiffs' Second Amended Complaint. Such persons have knowledge regarding communications between them and Baxter and the prices these entities reported and the methods by which these entities determined the prices reported.
6. Current and former employees of wholesalers who purchase drugs and therapies manufactured by Baxter and distribute them to healthcare providers who fulfill prescriptions. Such persons may have knowledge regarding prices charged to providers of drugs and therapies manufactured by Baxter and regarding prices reported in various pricing compendia.
7. Current and former employees of Baxter. Such persons have knowledge regarding the pricing, marketing, sale, and distribution of Baxter's drugs and therapies. Relators expressly reserve the right to contact all former Baxter employees who were not members of Baxter's control group or who may otherwise ethically be contacted directly.

NAME	CURRENT OR FORMER TITLE	CURRENT OR FORMER ADDRESS
Baldrige, Michael	Senior Director, Marketing	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Bradley, Michael	Senior Director, Healthcare Economics & Bioscience	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Guiheen, Larry	President, Bioscience	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Hamilton, Greg		<u>Contact through Relator's Counsel</u> 2830 Waterfront Avenue Algonquin, Illinois 60102
Kadam, Jill	National Accounts Director, Bioscience	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Koo or Khoo, Pam	Unk.	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Langan, Ted	Vice President, Sales	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Morgan, Patricia Kay	Manager of Editorial Services, First DataBank	Unk.
O'Malley, Peter	National Accounts Manager, Bioscience	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Park, John	vice-President, Marketing	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Poulios, Nick	Unk	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015

Sognier, John	Unk.	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Stewart, Royal	Director, National Accounts	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Sullivan, Kathy	Unk.	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015
Sun, Linnette	Relator	<u>Contact Through Relators' Counsel</u> 1133 South Eighth Avenue Arcadia, CA 91006
Trader, Kenneth H.	Director, National Sales	Baxter Healthcare Corporation 1 Baxter Parkway Deerfield, IL 60015

B. Relators' Rule 26(a)(1)(A)(ii) Disclosure: Identification of Documents, Electronically Stored Information, and Tangible Things

Relators have taken reasonable steps to preserve information it reasonably believes to be relevant to the action. Relators have previously produced all such documents relevant to the *qui tam* allegations, save for communications between the Relators and the Department of Justice or various state Attorneys General, for which a Common Interest Privilege is asserted.

Additionally, Relator Sun possesses and has preserved documents pertinent to her claim for loss of earnings and loss of future earnings. Relator Sun notes that some of these documents reflect her work product and are subject to nondisclosure agreements she signed with various companies for which she consulted.

C. Relators' Rule 26(a)(1)(A)(iii) Disclosure: Computation of Damages Claimed

Relators have a computation of damages pertaining to their *qui tam* allegations regarding AWP fraud for Advate, Recombinate, and Gammagard. Relator Sun does not presently have a computation of her lost income and future lost income.

D. Relators' Rule 26(a)(1)(A)(iv) Disclosure: Insurance Agreements

Relators state no insurance agreement exists that may satisfy all or part of a judgment.

Respectfully submitted,

LAW OFFICE OF MARK ALLEN KLEIMAN

Dated: August 4, 2011

By: /s/ Mark Allen Kleiman
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Greg Hamilton

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the foregoing **RELATORS LINNETTE SUN'S AND GREG HAMILTON'S INITIAL DISCLOSURES PURSUANT TO RULE 26** to be delivered by electronic service via LexisNexis File & Serve on was served on all counsel of record by electronic service on August 4, 2011.

/s/ Mark Allen Kleiman
MARK ALLEN KLEIMAN